

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES FIDELITY AND GUARANTY COMPANY,	:	CIVIL ACTION NO. 1:01-CV-0813
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
BRUCE J. BROWN and BROWN SCHULTZ SHERIDAN & FRITZ,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 16th day of October, 2003, upon consideration of plaintiff's motion in limine to preclude the testimony of Rick Conner ("Conner") (Doc. 111), and following a pretrial conference involving counsel for the parties, and it appearing that defendants failed to identify Conner as a potential witness in a timely fashion, see FED. R. CIV. P. 26(a)(1)(A) (requiring parties as part of their initial disclosures to identify "each individual likely to have discoverable information that the disclosing party may use to support its claims"), but that plaintiff received limited notice of Conner's status as a potential witness through an affidavit provided to plaintiff during the deposition of another witness and that any potential prejudice to plaintiff caused by Conner's testimony as to those issues fairly presented in the affidavit may be cured by permitting plaintiff to depose

Conner, see FED. R. CIV. P. 37(c)(1) (providing that sanctions should not be imposed if failure to comply with Rule 26(a) is “harmless”), it is hereby ORDERED that:

1. Plaintiff is granted leave to depose Conner as to those issues fairly presented in the affidavit prepared by Conner and previously provided to plaintiff. Counsel for defendants shall ensure Conner’s availability for deposition.
2. Conner will be permitted to testify at trial as to those issues fairly presented in the affidavit prepared by Conner and previously provided to plaintiff.
3. The motion in limine to preclude the testimony of Rick Conner (Doc. 111) is otherwise DENIED.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge